

CBT Chapters

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Overview

The Fair Labor Standards Act (FLSA) is a federal law that establishes regulations affecting full-time and part-time employees in the private sector and in Federal, State, and local governments regarding

- Minimum Wage
- Overtime Pay
- Recordkeeping
- Youth Employment Standards

The U.S. Department of Labor, Wage and Hour Division, administers and enforces the FLSA.

This Computer Based Training (CBT) has been developed for State agencies within the State Personnel System and primarily focuses on the overtime requirements of the FLSA and Arizona state laws and rules.



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State and Local Governments

The FLSA contains special regulations that apply to state and local government employment involving

- Fire protection and law enforcement activities
- Volunteer services
- Compensatory time off instead of cash overtime pay

Some states also have state laws that establish a state minimum wage and overtime pay requirements that are equivalent to, or in some cases, more generous than the federal requirements.



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Minimum Wage

Both federal and state government sets minimum wage standards. These wage standards can be the same, or they can be different. For example, the federal minimum wage may be \$7.25, but the State can set its minimum wage at \$7.35.

It's important to note that the state minimum wage does NOT apply to Arizona State government employees because the definition of employer under the state law does not include the State of Arizona.



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Overtime

Which State employees are eligible for overtime in Arizona?
Under Arizona state laws

- Employees in FLSA Non-exempt (NE) positions are paid for all hours worked and receive either additional pay or compensatory leave at the rate of 1 ½ times for each hour of overtime worked
- Employees in FLSA Exempt (EX) positions are paid to get the job done regardless of hours worked, are paid an established salary and are not eligible to receive overtime compensation

There are some exceptions to the above (e.g., some law enforcement and firefighting positions). See your agency Human Resources office if you believe this may apply to your employees.

NOTE: Some agencies pay cash for overtime worked and do NOT use Compensatory Leave as a means to compensate for overtime hours worked. Please see your supervisor if you have questions about how your agency pays for overtime.



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FLSA Designation

It is important to note that a position's FLSA designation (whether an employee in the position receives overtime for hours worked over 40 in a work week) is **NOT** related to whether an employee is covered or uncovered. Both covered and uncovered employees may be eligible for overtime.



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FLSA Designation (continued)

For agencies in the State Personnel System, the Arizona Department of Administration, Human Resources Division, Classification and Compensation Section, is responsible for determining FLSA designations of all employees, regardless of whether the employee is covered or uncovered. The designations are

- Non-exempt
- Exempt



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FLSA Designation Table

FLSA Designation	
Non-Exempt	
Overtime Compensation Rate	1 ½ times regular pay
Leave taken for	All absences, whether partial or full day
Exempt	
Overtime Compensation Rate	No overtime for any hours
Leave taken for	Full day absences only (partial day absences are not deducted from leave balances)

NOTES:

- Some FLSA-exempt employees engaged in law enforcement or firefighting activities may be eligible for overtime pay or compensatory leave. See your agency Human Resources office for further information if you believe this may apply to your employees.
- Employees in exempt positions who were covered employees prior to September 29, 2012, may have compensatory leave available for use, although they are no longer eligible to accrue compensatory leave.

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Recordkeeping

The FLSA requires employers to keep certain records on wages and hours for non-exempt employees. Below are some of the types of records agencies are required to retain:

- When the work week begins
- Total hours worked each work day and each work week
- Total overtime pay each work week
- Deductions from or additions to wages
- Total wages paid each pay period



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Youth Employment Standards

The FLSA child labor provisions are designed to protect the educational opportunities of minors (under 18 years old) and prohibit their employment in hazardous jobs. These provisions vary by age, type of work, and hours of work.

Except for the child labor provisions, the FLSA does not specify the days or times an employee may work.

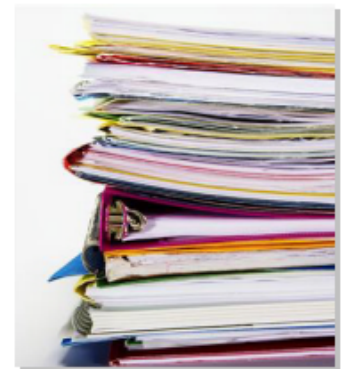
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FLSA Regulations, State Personnel System Rules, Agency Policies

FLSA regulations do not cover every aspect of an employee's work time and compensation. For example, meal periods are not mandated by the FLSA.

Supervisors should review the State Personnel System Rules and agency policies and procedures for information on how the FLSA interacts with and affects decisions regarding an employee's work time, compensation, breaks, etc.



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Who is Eligible for Overtime?

Click on each of the employee types to determine eligibility for overtime compensation.



Non-Exempt



Exempt

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Chapter Summary: Overview

This completes the Overview chapter. The next chapter discusses hours worked, flextime, and overtime. Remember to clarify any questions you may have with your supervisor or your Human Resource office.

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Hours Worked, Flextime, and Overtime

What is a work week?

The FLSA defines a work week as any seven consecutive 24-hour periods (168 hours).

The State work week is the period of seven consecutive days starting Saturday at 12:00 a.m. and ending Friday at 11:59 p.m.

The most common work schedule within a work week is five 8-hour work days. Subject to the operational needs of the agency, an agency may offer a flexible work schedule to its employees. An example of a flexible work schedule is four 10-hour work days.



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Hours Worked

The FLSA defines "hours worked" as all time during a work week that an employee is "permitted or suffered to work." Hours worked includes all time an employee must be on duty, including hours attending work-related training and work-related travel time (minus the employee's regular commute time).

Click on each of the pictures for details.

Supervisors should contact their agency's Human Resources or Payroll office with questions on how to code an employee's work time.



Training Time



Travel Time

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Meal Periods

Neither the FLSA nor Arizona law mandates that employers provide employees with meal breaks (lunch periods). The FLSA does specify that bona fide meal periods (usually 30 minutes or longer) are **NOT** considered hours worked and therefore are not compensable. However, if an employee works during his/her meal period, the employee may be eligible for compensation for the entire meal period. **This is why it is critical that employees are relieved of duty during meal periods.**

It is recommended that employees leave their workstations during meal periods, thus decreasing the likelihood of employees working during a meal break.



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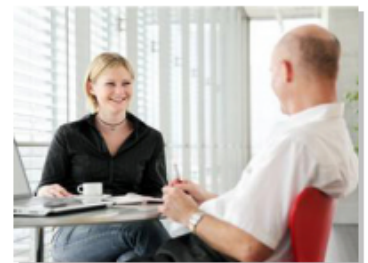
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Breaks

There are no requirements under the FLSA or Arizona law requiring employers to provide short breaks to employees, except for nursing mothers. Employers are required to provide reasonable break time and a private non-bathroom place for an employee who is a nursing mother for one year following the child's birth.

Agencies may provide breaks for their employees during the work period consistent with the business needs of the agency. FLSA specifies that breaks (up to 20 minutes) are considered time worked and the employee must be compensated for the break. Most agencies have policies prohibiting employees from using their breaks at the beginning of their shift in order to come in late or at the end of their shift in order to leave early or to bank their breaks in order to take a longer break that day or later that week.

Supervisors should contact their agency's Human Resources office for guidance on breaks.



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What is Flextime?

Employees may request approval to flex their time by exchanging "hours worked" from one day to another day in the same work week. Flextime must be approved in advance and must be scheduled prior to the end of the work week (Friday at 11:59 p.m.). Additionally, overtime hours worked in one work week cannot be flexed in another work week even if the work weeks are in the same pay period.

Consider the following example of a non-exempt (NE) employee's timesheet:

Week 1

Week 2

Leave Balances

Click the image for more info.

										Total Hours Week 1
Pay	07/09	07/10	07/11	07/12	07/13	07/14	07/15			40.00
FC	Code	Sat	Sun	Mon	Tue	Wed	Thu	Fri	AC	SH
		100		10.00	8.00	8.00	8.00	6.00		1

This employee is not eligible to receive overtime. Even though she worked 10 hours on Monday, the total hours worked for the week only equals 40. Consult with your agency's Human Resources office to determine if your agency allows employees to flex their time.

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What is Overtime?

The FLSA defines overtime as any hours worked over 40 hours in a work week. Overtime is calculated by work week, not by pay period or by hours worked in one day. Non-exempt employees who work over 40 hours in one work week receive overtime compensation.

Consider the following example of a non-exempt (NE) employee's time record:

Week 1		Week 2		Leave Balances									Total Hours Week 1	
Pay		07/09	07/10	07/11	07/12	07/13	07/14	07/15				42.00		
FC	Code	Sat	Sun	Mon	Tue	Wed	Thu	Fri	AC	SH				
<div><div></div><div></div></div>	100			10.00	8.00	8.00	8.00	8.00		<div><div></div><div></div></div>	1			

This employee is eligible to receive two hours of overtime compensation.

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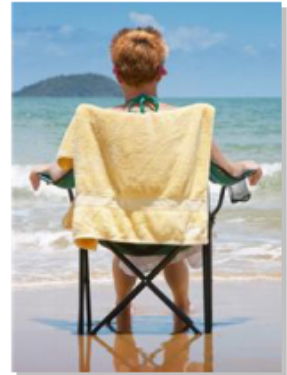
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What is Compensatory Leave?

Compensatory Leave is paid time off that is earned by an employee in lieu of pay for working overtime hours.

A non-exempt employee must elect how the employee will receive overtime compensation by completing an Overtime Compensation Election Form. A non-exempt employee may elect to accept only compensatory leave, either compensatory leave or cash payment, or only cash payment. The Overtime Compensation Election Form can be found on the ADOA Human Resources website or obtained from the agency's Human Resources office. NOTE: if a non-exempt employee elects cash payment only for overtime compensation, the agency may not require the employee to work overtime unless they can compensate for the overtime with cash. However, if an employee elects compensatory leave, the agency may choose to pay the employee cash.

Sample Overtime Compensation Election Form.



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What is Compensatory Leave? (continued)

All FLSA-exempt employees are excluded from receiving either overtime pay or compensatory leave unless they are engaged in law enforcement* or firefighting activities as specified in the Personnel Rules. If an exempt employee engaged in law enforcement or firefighting duties works overtime, the employee receives one hour of compensation for each hour of overtime worked.

See Personnel Rule R2-5A-404 for details.

**Full authority peace officers in the covered service are included if they are in positions requiring such certification.*



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How Overtime is Calculated (Non-Exempt)

Non-exempt employees are compensated for overtime at one and one-half hours of pay or one and one-half hours of compensatory leave for each hour of overtime worked. Consider the scenario below:

		Week 1	Week 2	Leave Balances									Total Hours Week 1
Pay	FC	07/09	07/10	07/11	07/12	07/13	07/14	07/15	AC	SH			44.00
	Code	Sat	Sun	Mon	Tue	Wed	Thu	Fri					
		100	4.00	8.00	8.00	8.00	8.00	8.00		1			

Joe is a non-exempt employee who makes \$10.00 per hour. He worked 44 hours in a work week (40 hours of straight time and 4 hours of overtime). Depending on Joe's Overtime Election Form, Joe will be compensated for 40 hours at \$10.00 per hour and either:

- 4 hours of pay at \$15.00 per hour ($1.5 \times \10.00 per hour = \$15.00 per hour)
- OR -
- 6 hours of compensatory leave earned (1.5×4 hours = 6 hours earned)

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Extra Hours and Holidays

Paid holiday hours are not considered "hours worked" under FLSA and therefore are not part of the overtime calculation. Only actual "hours worked" are used to calculate overtime. If a holiday occurs during a week in which extra hours are worked, the paid holiday (pay code 320) is not considered hours worked for the purposes of calculating overtime.

Consider the following example of a non-exempt employee's timesheet:

		Week 1	Week 2	Leave Balances									Total Hours Week 1
Pay	FC	07/09	07/10	07/11	07/12	07/13	07/14	07/15	AC	SH			44.00
	Code	Sat	Sun	Mon	Tue	Wed	Thu	Fri					
		100			10.00	10.00	8.00	8.00		1			
		320		8.00						1			

In this example, the employee would be compensated as follows:

- 36 hours worked at the employee's regular rate of pay
- 8 hours of holiday pay at the employee's regular rate of pay

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Extra Hours Worked and Other Paid Leave

If other paid leave (annual, sick, etc.) is requested and approved during a week in which extra hours are worked, the leave may be offset by the extra hours worked. Some agencies prohibit employees from charging leave if the leave hours would cause the total compensable hours to exceed 40 and require the employee to adjust leave hours taken. However, some agencies compensate the employee for all hours worked in addition to the leave time taken at the employee's regular rate of pay (overtime hours would not be permitted since the employee did not actually work over 40 hours).

Consider the following example of a non-exempt employee's time record:

Week 1		Week 2		Leave Balances									Total Hours Week 1
Pay	07/09	07/10	07/11	07/12	07/13	07/14	07/15						44.00
FC	Code	Sat	Sun	Mon	Tue	Wed	Thu	Fri	AC	SH			
100					10.00	10.00	8.00	8.00		1			
300				8.00						1			

8.00 4.00

In this example, the employee took one day of annual leave (pay code 300), but worked 36 hours.

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Extra Hours Worked and Other Paid Leave (continued)

Depending on agency policies and procedures, the employee may not be eligible to be compensated for all the leave time taken. In the table on the previous screen, the timesheet reflects an agency policy of requiring the employee to adjust the number of leave hours. In this example, the employee is compensated as follows:

- 36 hours worked at the employee's regular rate of pay; and,
- 4 hours of paid annual leave (leave hours taken on Monday adjusted from 8 to 4)



However, if agency policies and procedures permit an employee to receive compensation for annual leave in this situation, the employee would be paid 44 hours at the employee's regular rate of pay. If this occurred, the employee would be compensated as follows:

- 44 hours at the employee's regular rate of pay (36 hours for work time and 8 hours of annual leave)

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Approval of Overtime

All employees who are eligible for overtime compensation **must** have prior authorization from their supervisor or upper management before working overtime hours, unless overtime is required in an emergency. However, if an employee works unauthorized overtime, they must be compensated.

Non-exempt employees may not begin working before they are scheduled to work, continue to work after their shifts end or skip their lunch breaks, unless they have prior approval or an emergency occurs. If an employee works longer than the regularly scheduled hours in one or more work days, the supervisor may alter the employee's schedule later in the week in order to ensure the employee does not work in excess of 40 hours for the week. Employees who work unauthorized hours may be subject to corrective or disciplinary action.



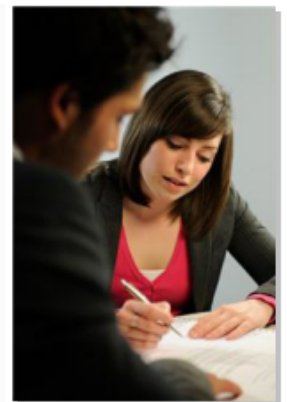
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Supervisor Responsibilities

The supervisor is responsible for

- Managing employees' work schedules.
- Verifying all hours worked are accurately recorded and totaled on employees' time records.
- Ensuring time records are completed correctly, working with the employee to correct the time record before approving it.
- Ensuring employees are taking the appropriate amount of time for meals and not working during those periods.
- Ensuring employees do not work overtime or flex their time without prior approval.
- Ensuring employees who work overtime accurately record the time and are appropriately compensated.
- Taking corrective action against an employee who fails to get prior approval for overtime. The employee still must be properly compensated for all hours worked; however, the supervisor should contact the agency Human Resources office for guidance on addressing the issue through appropriate corrective/disciplinary action.



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Chapter Summary: Hours Worked, Flextime, and Overtime

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FLSA Violations

Wage and Hour Violations

FLSA wage and hour violations most commonly made by employers include

- Failure to compensate for overtime, especially if the overtime was not authorized
- Allowing employees to work through unpaid meal periods
- Allowing employees to work off the clock (or knowing employees are working "off the clock")
- Flexing overtime hours into another work week



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Consequences of FLSA Violations

If an employer violates the FLSA, the consequences can be costly.

- Employers who willfully or repeatedly violate the minimum wage or overtime pay requirements are subject to a civil penalty of up to \$1,100 per violation
- The Secretary of Labor may bring suit for back wages and an equal amount as liquidated damages
- An employee may file a private suit for back pay and an equal amount as liquidated damages, plus attorney's fees and court costs
- FLSA litigation involving groups of employees can cost millions of dollars



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Chapter Summary: FLSA Violations

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Assess
Your

Knowledge

This final examination is made up of 10 questions. You will need a minimum score of 70%, or 7 correct answers, to successfully pass this examination.

Click the Next button to proceed to the final examination.

